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The 2020's first edition of Indonesian Law Journal Volume 13 has been published. The discussion topic of this edition is The Settlement of Territorial Disputes Among Countries in The Perspective of International Law and Other Possible Aspects. This edition presents 5 (five) articles from authors with various backgrounds. Please enjoy reading as we hope these article in our Journal are beneficial and constructive towards the development of national law.

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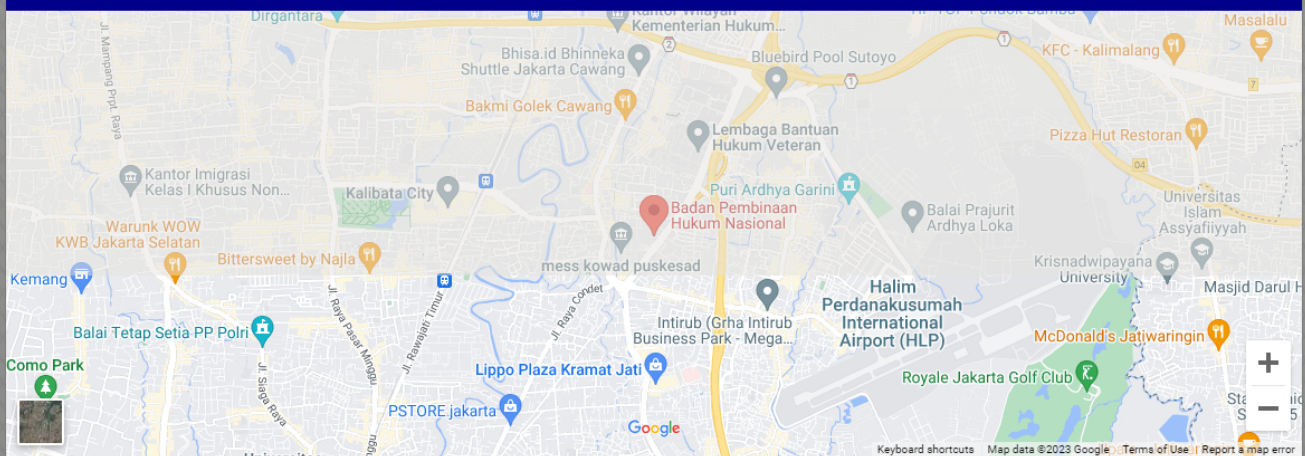
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THE INTERNATIONAL LAW OF THE SEA BORDER DISPUTE IN NATUNA WATERS CONCERNING SEA NATURAL RESOURCES IN WATER BORDER BASED

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ABSTRACT

Waters around the territorial boundaries of a country contain countless natural biological resources often become the object of disputes. Several countries bordering Natuna island had been in dispute especially under the UNCLOS 1982. This should be a concern of the Indonesian government, especially in regard to the government's obligations to protect the natural resources in Natuna Island. This research uses the normative legal research method or approach to examine the positive law in maritime regime and its enforcement compared to library materials or secondary data regarding the problems that showed in this research. Theoretically, the benefits of this research are to provide information and to understand every development of legal science in general and international sea law, as well as relating to the issues discussed in this study, in particular. Practically, it is expected to be useful for all parties in international maritime law enforcement.

Keywords: Protection, Natural Resources, Sea Border Disputes, International Law of Sea, Sovereignty.

A. Introduction

The total area of the sea is two-thirds of the earth's territory and provides 97% of all life on earth. Seawater is a place for living, and it develops a wide variety of living creatures both visible and invisible.¹ In addition, the sea also supports the life and existence of mankind by providing maximum benefits and uses for human life. It is right to say that the natural resources therein contain intrinsic values, namely

assets or economic wealth for present and future generations. The higher the marine biodiversity is, the more economic potential the water has. This condition is very easily reflected because it is directly proportional.

Natural resources, which are located in the vicinity of boundary areas of the sea (trans boundary natural resources) or often referred to as cross-border natural resources, can be classified as a trans

boundary natural resource which is located under the seabed extending from the boundary of the two sides of the continental shelf. Hence, these natural resources can be exploited from the other party's continental shelf, either partially or completely. Specifically in Indonesia, such areas are spotted in many different locations.

These water border areas contain natural resources which are very potential to be developed and used as basic capital and opportunities to accelerate regional development, strengthening resilience, and so on. Therefore, it is not surprising if there are frequent disputes between countries related to the territorial waters that is promising as the potential of natural resources.

For Indonesia, many aspects of international law have not been able to reflect the rules of joint use of international sea areas, especially in border areas. This can be seen from various problems. These problems include: the unclear distribution of resource rights in marine areas, various unclear sea boundary issues with neighboring countries, problems of cooperation in the scope of maritime security, and agreements to exchange prisoners of fishermen between countries including the utilization of the biological resources in it.² Adding to these problems is the follow-

ing issues: theft of marine life, illegal, unreported, and unregulated fishing, where many of the proceeds of crime are brought and fully utilized by foreign countries and other problems related to the sea area.³ The problems mentioned above have not yet aroused much attention from researchers in Indonesia. This can also be proven from the lack of literature on the issue of the protection of living natural resources in border area in Indonesia. Therefore, this paper is intended to critically analyze the main problems surrounding the Natuna Island from the perspective of international law. The two main matters that will be discussed in this paper are:

- a. How Indonesia's government can provide a protection to the natural resources through Natuna Island?
- b. How Indonesia Government can establish its sovereignty through Natuna Island?

B. Research Method

Method used in this scientific writing is normative legal research method that is a legal research carried out by examining literature or secondary data.⁴ Secondary materials used are book materials on international law, specifically international law, maritime law, and diplomatic and consular law. Based on existing history, the

¹ Nyabakken, J.W., 1986, *Marine Biology : An Ecological Approach*, (Translators : M. Eidmen, Koebiono, Dietrich, Hutomo, and Sukardj0), Jakarta :PT Gramedia , p. 18.

² J.A.Draper, 1977, *The Indonesian Archipelagic State Doctrine and The Law of The Sea : Territorial Grab or Justifiable Necessity?* *International Lawyer*, Vol.11, no.1, p.44.

³ Sihotang, Japanton, 2009, *Indonesian Border Sea Border Problems in the Arafura Sea and Timor Sea*. LIPI Press., Jakarta,p53-56.

⁴ Soerjono Soekanto, 2001 *Introduction to Legal Research*, Jakarta: Rajawali, p. 15.

actual division of the sea has occurred since the 15th century where there was an agreement between Spain and the Portuguese which had great power in the very influential maritime field.⁵ Meanwhile, in 1945, the President of the United States, Harry S. Truman, proclaimed that the power of the United States also covers the seabed around the mainland of the United States so that the United States has the right to use all the natural resources contained therein. This was later known as the Truman Proclamation. In its journey, it turned out that many countries were inspired by the Truman Proclamation so that each country declared its authority over the surrounding seabed, including Indonesia, which claimed power over the sea around the Indonesian Islands known as the Djuanda Declaration.

As a result, there was a sporadic phenomenon of marine area claims that occurred at that time. The United Nations considers that there is a need for regulation of control over the sea. Therefore, the United Nations held the United Nations Conference on the Law of the Sea which produced the United Nations Convention on the Law of the Sea 1958. In its development, the convention was finalized through the 1982 United Nations Conference on the Law of the Sea convention (hereinafter referred to as the UNCLOS 1982) which has been ratified by more than 160 coun-

tries. Indonesia has ratified the convention through Law No. 17 of 1985.

The approach used is the statute approach that is addressing all legislation and regulations related to the legal issues being addressed and Conceptual Approach that moves from the views and doctrines that develop in law. In this paper, the researcher's focal point to approach the problem discussed is Law Number 17 of 1985 concerning Ratification of the United Nations Convention on the Law of the Sea (hereinafter referred to as UNCLOS), Law Number 5 of 1990 concerning Nature Conservation, Law Number 37 of 1999 concerning Foreign Relations, and Law Number 17 of 2019 concerning Water Resources. All of the regulations referred to are used in this paper to examine the issues surrounding protecting the living natural resources in the Indonesian sea borders and the appropriate way to resolve the issue of territorial water disputes between countries bordering Indonesia directly. The data used are secondary data obtained from literature studies and primary data obtained by conducting interviews with respondents and litigation institutions.

⁵ Butcher, JG. 2009. Becoming and archipelagic state: the Djuanda Declaration of 1957 and the "struggle to gain international recognition of the archipelagic principle, in Cribb, R. and Ford, M. 2009 Indonesia beyond the water's edge - Managing an archipelagic state, Indonesian Update Series, RSPAS Australian National University, ISEAS, Singapore, p.28-48.

C. Discussion

1. *The Maritime Law in Indonesia to Provide Sovereignty in Its Water Borders*

The sea, especially the ocean, has special characteristics for humans. As far as the law of the sea, the law means a series of regulations regarding the behavior of people as members of the community and aims to establish order among the members of the community. The sea is a vast expanse of water between various continents and Island in the world.⁶ Because Indonesia's territory consists of 60% of the territorial waters or oceans, the condition of the Indonesian archipelago is also elaborated.

The identification of islands in Indonesia has successfully confirmed the number of islands in Indonesia as 17,508 islands. Among those islands, there are 7,353 have name, while 10,155 are unnamed islands. Out of all the named islands, 67 islands are directly adjacent to neighboring countries, and 11 of them are located on the outer islands, which requires special attention. The eleven outermost Island in Indonesia are Sekatung Island and Natuna Island in Riau Island Province, Marore Island and Miangas Island in North Sulawesi Province, Fani Island and Fanildo Island and Behala Island in Papua Province, Rondo Island in Nanggroe Aceh Darussalam (NAD), Behala Island in Province

North Sumatra, Nipa Island in Riau Province and Batek Island in East Nusa Tenggara Province (NTT).⁷

In fact, Indonesia has a territory directly adjacent to neighboring countries, or a territory that is not directly bordered as is the case with the People's Republic of China (PRC). There is a difference of views between the State of Indonesia and the countries mentioned above regarding water boundaries. These differences in views have led to disputes with the countries mentioned above. The cases in the waters of the Natuna Island in mid-January 2020 had proved to us.

Understanding Maritime Law in general can be interpreted as: law relating everything that is related. In the history of the Anglo-Saxon legal system, Maritime Law is translated by the term Admiralty Law. The term means matters concerning the handling of legal matters concerning maritime by a court of admirals.

Meanwhile in a narrower sense, maritime law is in terms of the terms Shipping Shipping, Scheepvaartrecht, sea-transport law. The equivalent term is not appropriate because the scope of understanding of Maritime Law is more diverse than the terminology of shipping or sea transportation law. Understanding Maritime Law according to Black's particularly relates to commerce and navigation, to ships and shipping, to seamen, to the transportation of persons and property by sea, and to ma-

⁶ Wirjono Prodjodikoro, 1984, *Law of the Sea For Indonesia*, Jakarta : Bandung Well, p.8.

⁷ O.C. Kaligis & Associates, 2003, *Sipadan-Ligitan Dispute : Why We Lose*, Jakarta , P.8.

rine affairs generally. The law relating to harbors, ships and seamen. And important branch of the commercial law of maritime nations is divided into a variety of departments, such as those about harbors, property of ships, duties and rights of masters and seamen, contracts of freight, average, salvage, etc.

Having understood the Maritime Law above, there are several focal points of maritime law to state. The focal point is in the interest of whom the maritime law was created. Thus, maritime law, which focuses on issues around trade, navigation at sea and everything that covers it, accommodates the mindset of the Utilitarianism.⁸ Utilitarianism is the legal thought that prioritizes the actual interests of each individual, so that the state is "only" an embodiment of the actual interests of each of its citizens. This is what causes a lot of distortions and problems within law enforcement. It can be understood that the result of law enforcement based on actual interests is the justification of actions that are international in nature are sensitive to claims that are empirical / require proof. Based on the above understanding, the scope of Maritime Law includes:

1. Matters relating to ships,
2. Matters concerning the seaport of these ships,

3. Matters about shipbuilding (shipping industry)
4. The aspects of civil law and public law from the things mentioned above.⁹

The main functions of maritime law are formulated in the issuance of the ESCAP (Economic and Social Commission for Asia and the Pacific), Bangkok, Guidelines for Maritime Legislation:

1. Maritime Law provides the legal framework for maritime transport, i.e. the carrying out of a state's foreign trade,
2. Maritime Law implements the basic objectives of a state as a port state and coastal state,
3. Maritime Law may serve the achievement of certain economic purposes.¹⁰

While in other parts, the law of the sea can be interpreted as aspects regarding the use and sources of marine resources. In the ESCAP Guidelines for Maritime Legislation, it is formulated that: The law of the sea encompasses all aspects of the uses and resources of oceans, the Maritime Law constitutes that specialized branch of the law which governs maritime transport and sea-borne international trade. Since the birth of the United Nations International Convention on the Law of the Sea (United Nations Convention on the Law of

⁸ Fernando R. Teson, 1998, *A Philosophy of International Law*, United States America: Westview Press, p.50-51.

⁹ Joko Susanto, 2015, In *Compilation Book : Kemaritiman Indonesia, Problem Dasar Strategi Maritim Indonesia*, Malang : CV. Cita Intrans Selaras, p 26-28.

¹⁰ M. Husseyn Umar, 2015, *Hukum Maritim dan Masalah-Masalah Pelayaran di Indonesia Buku I*, Jakarta : Fikahati Aneska, p. 5.

the Sea) in 1958 and 1982, the framework for regulating International Sea Law covers the following matters:

1. The spatial boundaries of all marine spaces and legal regimes concerning national sovereignty or jurisdiction over oceanic spatial areas which connect to the coast, access to the ocean,
2. Shipping, protection and preservation of the environment against pollution,
3. Exploitation of biological and vegetable resources and their preservation, scientific research on maritime,
4. Seabed mining,
5. Settlement of disputes.¹¹

The Sea Law Convention also details various legal regimes regarding freedom of sailing in the open sea, including in the EEZ and for seagoing in territorial seas through international straits and archipelago waters. In this arrangement, the coastal state has the authority to make laws and regulations regarding sea traffic in the area for shipping safety and regulate shipping traffic, protect facilities and navigation aids, and preserve the environment and control pollution.

On February 25, 1992, the government of the People's Republic of China (PRC) announced the Law of the Territorial Sea and its Additional Zone, where the Natuna Island was included in its Territorial Jurisdiction. The Chinese interests in the South China Sea region extend to the fisheries area of the Natuna Island. From the cap-

turing of KM. Kway Fey (a motor vessel) with the Chinese flag and eight crew members from China by the Indonesian Ministry of Maritime Affairs and Fisheries (KKP), it was evident of the interests. This polemic was exacerbated when the ships did not merely enter Indonesian sovereignty but also illegally caught fish with the protection of a coast guard.

Territorial sovereignty of a country is three dimensional including land, air and sea. Sovereignty over land covers land surface, land, and land under land to an unlimited depth. Sovereignty over airspace includes airspace which is located above the surface of the land area and which is located above the territorial waters of a country. Whereas in the sea area, a country's territorial sovereignty includes the zone of inland waters, territorial waters and territorial seas. The territorial sovereignty of a country is also regulated under Article 2 of UNCLOS 1982. The explanation of the convention explains that the basic concept of space for sovereignty as the highest authority of a state is limited by the territory of that State, so that the state has the highest power within its territory. Mochtar Kusumaatmadja stated that a consequence of understanding sovereignty in this limited sense, besides independence, also understood equality. That is, besides the sovereign states, each of them is independent; they are also of the same rank as the others. Mochtar Kusumaatmadja stated that independence and equality are

¹¹ M. Husseyn Umar, 2015, *ibid*, p. 6.

forms of the realization and implementation of the definition of sovereignty in a reasonable sense.¹²

The importance of sea areas in relations between nations also makes the importance of international sea law important. The purpose of this law is to regulate the dual use of the sea as a highway and as a source of wealth and energy. In addition, the law of the sea also regulates competition between countries in seeking and using the wealth provided by the sea, especially between developed and developing countries.

2. *The Enforcement on Maritime Regime, the Difficulties Inside*

Law was born from international customary sources. This international custom was born from the same actions and carried out continuously on the basis of the same needs at sea. International customs are also common habits that are accepted as law. Be aware that international customs as a source of law do not exist, since a source of law is closely related to international treaties. This relationship is a reciprocal relationship.

International agreements are agreements that are held between members of the community of nations and aim to have certain legal consequences. Legal sources of sea law were the result of the 1958 UN conference in Geneva. The conference, which was held from February 24 to April

27, 1958, was called the UN Conference I on the Law of the Sea, was successfully agreeing on four conventions, as follows:

- a) Convention on the Territorial Sea and the Contiguous Zone entered into force on September 10, 1964;
- b) Convention on the High Seas came into force on 30 September 1962;
- c) Convention on Fishing and Conservation of the Living Resources of the High Seas (Convention on Fisheries and Protection of Open Sea Biological Resources), entered into force on March 20, 1966;
- d) Convention on the Continental Shelf came into force on June 10, 1964.

In other regions, there are sea areas which must be regulated with different uses. These parts are the Exclusive Economic Zone, the territorial Sea, and other parts. The Exclusive Economic Zone is a new arrangement established by the UNCLOS 1982. Long before the birth of this regulation, the outer boundary of the territorial sea was considered as the boundary between the part of the sea towards the land where full sovereignty of the coastal state applies, and the part of the sea outward from that boundary where the freedom applies in the high seas. The arrangement of the Exclusive Economic Zone can be considered as the result of a revolution that has changed in such a way the arrangement of the sea.

¹² Mochtar Kusumaatmadja, 1978, *Bunga Rampai Hukum Laut*, Jakarta : Bina Cipta, p.151-153.

In general, it can be defined what is meant by the Exclusive Economic Zone, namely "the part of the water (sea) located outside of and bordering a territorial sea as wide as 200 (two hundred) nautical miles measured from the baseline where the width of the territorial sea is measured". The width of the Exclusive Economic Zone for each coastal country is 200 miles as affirmed in Article 57 of UNCLOS 1982 which reads "the exclusive economic zone shall not extend beyond 200 nautical miles from the baseline from the breadth of territorial sea is measured" may exceed 200 nautical miles from the base line of which the territorial sea width is measured".

Article 55 of UNCLOS 1982 confirms that the Exclusive Economic Zone as waters (sea) located outside and adjacent to the territorial sea, subject to the special legal regime (special legal regime) stipulated in this Chapter, is based on where the rights and jurisdiction of coastal states, as well as other national freedoms, are governed by the relevant provisions of this convention. This particular legal regime appears in the specific law applicable to the EEZ as an integration, which includes:

- a. sovereign rights, jurisdiction and obligations of coastal states;
- b. the rights and freedoms of other countries;
- c. freedom of the high seas; and
- d. the rules of international law as specified in the convention.¹³

Therefore, in connection with the case of claims against the Natuna region, both of the PRC and Vietnam has violated the rights, jurisdiction and obligations of a coastal state. This means that PRC should not neglect the property rights of Indonesia as a coastal state. These rights include:

- a) Sovereign rights for the purposes of exploration and exploitation, conservation and management of natural resources, both biological and non-biological, from waters on the seabed and from the seabed and the land beneath, and in connection with other activities for the purpose of exploring the Exclusive Economic Zone, such as the production of energy from water, currents and wind.
- b) Jurisdiction as provided in the relevant provisions of this convention with regard to: i. manufacture and use of artificial islands, installations and buildings; ii. marine scientific research; iii. Protection and preservation of the marine environment.
- c) Other rights and obligations as specified in this convention.

In exercising rights and fulfilling obligations under this convention in the Exclusive Economic Zone, coastal States must pay due attention to the rights and obligations of other countries and must act in a manner consistent with the provisions of

¹³ M. Yunus, 2015 in Compilation Book : *Kemaritiman Indonesia, Problem Dasar Strategi Maritim Indonesia; Nusantara : Negara Maritim, Petani, atau Sekadar Sebaran Pulau?*, Malang : CV. Cita Intrans Selaras, P. 70-71.

this convention. The rights listed in this article with regard to the seabed and the underlying land must be implemented in accordance with the provisions of Chapter VI UNCLOS 82.

The Southeast Asian region has increasingly become the target of "ghost ships" that are rumored to be sailing with hundreds or even thousands of tons of cargo that suddenly disappear with cargo worth hundreds of millions of US dollars. The "ghost ships" disappear or are declared sinking even though they had sold their cargo and diverted it to other ships in international waters or at other ports. These ships with certain methods, methods of cheating, or certain modes of operation change the ship's identity to a new identity (generally to countries of flag of convenience, such as Panama, Liberia, Honduras, etc.). Crimes related to such shipping have increased in the past 10 years.

Several types of fraud that can occur / involve crime / fraud in the maritime world can be categorized into five (5) categories, namely:

1. Fraudulent use of documents. This is a crime / fraud manipulation of transport documents / arrangements, invoices, insurance polls, certificates of origin, quality certificates of goods, falsifica-

tion of these letters, or original letters filled in with false data).¹⁴

2. Deviation from the proper shipping route (deviation) and theft of cargo.¹⁵
3. Fraud in ship charter, (including fraudulent use of the proper charter time. Where the ship user (charterer) manipulates the charter time intentionally and fraudulently, the ship owner still has to fulfill delivery obligations even though the charterer has not performed its obligations).¹⁶
4. Fraud related to ship or cargo insurance, including the intentional action of burning or sinking the ship.¹⁷
5. Other frauds, including fraud related to activities at the port.¹⁸

Based on the above classification, the number of cases that occurred in Natuna Sea in the past decade can be described as following crimes/frauds:

1. Natuna sea area is very rich in biological wealth in the form of various types of fish, the oil content is quite promising, and also the treasure of shipwrecks, but the monitoring system is still very weak.

It requires a great deal of funds to oversee the Island and Archipelago in Indonesia. These funds include, among other things, used for patrol

¹⁴ Nunung Mahmudah, 2015, *Illegal Fishing, Pertanggungjawaban Pidana Korporasi di Wilayah Perairan Indonesia*, Jakarta : Sinar Grafika, p. 94.

¹⁵ Nunung Mahmudah, 2015, *ibid*, p. 95.

¹⁶ Wiwoho Soedjono, 1982, *Hukum Perkapalan dan Pengangkutan Laut*, Jakarta : Bina Aksara, p.138-142.

¹⁷ Wiwoho Soedjono, 1982, *ibid*, p. 87-88.

¹⁸ Baharuddin Lopa, 1982, *Hukum Laut, Pelayaran, dan Perniagaan*, Bandung: Penerbit Alumni, p.194-195.

costs, fuel costs, from patrol vehicles and other costs. However, during the last period there was a reduction in costs for the budgets referred to above. Furthermore, Executive Director of the Maritime Study Center for Humanity Abdul Halim gave a response to the re-emergence of the practice of fish theft by foreign fishing vessels (KIA) in the North Natuna Sea.¹⁹ Halim said that a decrease budget allocated for supervision of marine and fishery resources in the Directorate General of PSDKP, Ministry of Maritime Affairs and Fisheries (KKP) in the 2018-2019 fiscal year has significantly influenced the protection of the North Natuna Sea region.

He stated that the decrease in budget allocation had an impact on the decreasing number of monitoring days at sea, from 145 days to 84 days in a year.²⁰ The decline in the surveillance budget at sea by the CTF, apparently also occurred at the provincial level through the Department of Maritime Affairs and Fisheries. One example is the PSDKP budget allocation in the North Maluku Province DKP which decreased during the period from 2017 to 2019. As a result of the reduction and budgeting, the number of days for supervision dropped dramatically from 60

days in 2017 to 24 days in 2019. The budget reduction for PSDKP is considered to be one of the main causes that weakened the overseeing of Indonesia's sea areas, especially those directly adjacent to neighboring countries such as North Sulawesi, North Maluku, Riau Islands, and others.

2. The position of Natuna Island is very strategic and because of its strategic position which directly faces the South China Sea, Natuna Island borders a number of countries. Thus, it is not surprising that the Ministry of Maritime Affairs and Fisheries (hereinafter referred to as KKP) often catches foreign fishing vessels (henceforth called MCH) that are operating in these waters. In fact, KIA since 2014 has no longer been able to fish in Indonesian waters, or in other words it has been declared illegal.
3. Supervision of the granting of permits for foreign fishing vessels which often falsifies the identity of letters for sailing and letters for fishing.

Acting Director (Acting) Director General of Maritime and Fisheries Resources Supervision (PSDKP) Nilanto Perbowo explained that KIA captured in the Natuna waters often used flags of the states in the Southeast Asia or Asia regions.²¹ From the arrests made

¹⁹ www.mongabay.co.id, Jay Fajar, May 18, 2018, *Laut Natuna Masih Disukai Kapal Asing Penangkap Ikan Ilegal, Kenapa?*, downloaded on June 6, 2020, 15.00 Wib.

²⁰ <https://wow.tribunnews.com>, Mariah Gipty, December 31, 2019, *Direktur CMSH Ungkap Faktor Kapal Asing leluasa Masuk Indonesia, Bandingkan Anggaran 2018 dan 2019*, downloaded on June 6, 2020, 15.00 Wib.

²¹ <https://kkp.go.id>, January 20, 2020, *KKP Bebaskan Nelayan Indonesia yang tertangkap Aparat Malaysia*, downloaded on June 7, 2020, 13.00 WIB.

by the SHIP 04 Fishing Supervision Boat (KP) in the waters of the North Natuna Sea, 60% of KIA cases were found to have used fake permits, or incomplete shipping documents and ship permits. MCHs that were captured by these officers also did not have valid documents from the Government of Indonesia for fishing in the Fisheries Management Area of the Republic of Indonesia (WPP-RI).

Indonesian surveillance vessels continue to carry out routine surveillance operations on Illegal, Unreported, Unregulated Fishing (IUUF) vessels around the North Natuna Sea. But, weaknesses to the existing surveillance system still has been found until now.

4. Enforcement by the government of Indonesia to crack down MCH cases is deemed to be ineffective to entrap fish thieves.

Indonesia carried out enforcement actions by 3 (three) related institutions, namely the CTF for issues around Fisheries and fishermen, the Ministry of Foreign Affairs Department for issues concerning International Relations and the Boundaries of the State and territories of the Islands, as well as the Ministry of Maritime Coordinator and Investments in charge of the exploration and utilization of the sea and its wealth. From a number of cas-

es that have been prosecuted, actions are often only carried out on actions against the captain of the ship. Such actions can be considered as ineffective actions. This is in line with the statement by the expert of Sea Law Expert at the Faculty of Engineering, Gadjah Mada University Yogyakarta, I Made Andi Arsana.²² He stated that legal action which was limited to the captain of the ship was not enough to make a deterrent effect on the ship owner's company. In addition, law enforcement against illegal fishing must touch on fishing theft practices at the border, such as double flagging, shutting down the VMS (vessel monitoring system), and transshipment (transfer of ships) in the middle of the sea.

He explained that under the provisions of Law No. 7 of 2016 concerning the Protection and Empowerment of Fishers, Fish Farmers, and Salt Farmers, smaller vessels under 10 GT are categorized as small fishing vessels and the use of such vessels becomes the modus operation to steal fish using small MCHs. Having this status would make the owner of the ship with concerned size receive various facilities from the KKP. The CTF also gave permission to conduct fishing. Consequently, illegal fishing conducted by Small Fishing Vessels is not acted on or "released". In fact, small MCHs

²² I made Andi Arsana, 2007, *Batas Maritim Antarnegara, Sebuah Tinjauan Teknis dan Yuridis*, Yogyakarta : UGM Press, p.144-145.

were axes for larger MCHs to wait in the middle of the sea.

5. Fishers from Vietnam, China deliberately involve their country's coast-guards to secure the fishing vessels of the two countries while sailing in the exclusive economic zone (EEZ) area of Indonesia. This condition has taken place in recent weeks and has provoked Indonesia to secure its sovereignty in the territorial waters.

The Natuna Island in the region of Riau has long been a busy area traversed by fishing vessels from around the world. The situation has not changed, despite political tensions in recent years in the region involving East Asian and Southeast Asian countries. Within this year, one of the Southeast Asian countries, Vietnam, even more aggressively catches fish in waters that fall into the exclusive International Economic Zone (EEZ). Not surprisingly, during 2019 the Ministry of Maritime Affairs and Fisheries (KKP) claimed to have found 13 patrol vessels in the country that were on guard or were always in those waters. For Indonesian Destructive Fishing Watch (DFW) National Coordinator Moh. Abdi Suhufan, the vigilance of the 13 Vietnamese patrol boats is aimed at keeping fishing activities carried out by their fishermen to continue to run well.²³ The ships consist of fish-

ing patrol boats and coast guard vessels and focus on safeguards in the border areas between countries. That was done by Vietnam, because it was not yet clear of the exclusive economic zone boundaries of the two countries (Indonesia and Vietnam), so that it became a gap and justification Vietnam to expand fishing territory in the North Natuna Sea.”

D. Closing

Approaches of the Government of Indonesia to provide protection to the natural resources in Natuna Island:

1. Upholding sovereignty in the Natuna Sea with the principles of International Sea Law without prejudice to the maritime status of the State Sovereignty of Indonesia in the Natuna Sea should be realized by upholding Indonesia's Internal Sovereignty as a political unit that is unanimously united in the territorial integrity of its people and ethnic groups. Thus, the territorial sovereignty between the Natuna Sea and the Riau Island and the Indonesian people cannot be separated as part of the sovereignty of the Indonesian state itself.
2. Bringing the strength of the marine fleet to support security in the Natuna Sea and other waters.
3. In supporting sovereignty as explained above, it requires supporting force to

²³ www.mongabay.co.id, Jay Fajar, September 6, 2019, *Ulah Vietnam Ini Mengintimidasi Indonesia di Laut Natuna Utara*, downloaded on June 9, 2020, 10.30 WIB.

maintain the sovereignty. The strength of the sea fleet will be the most logical consequence for securing Indonesian territory, including the Natuna Sea.

4. Formulating a security and enforcement strategy against KIA that violates the Indonesian Sea.
5. With the existence of the recognition of Indonesia's sovereignty which is round and intact with all the consequences of supplying the strength of its naval fleet, then we need a security and enforcement strategy for the MCH who commit violations and crimes in the Indonesian sea. This security strategy needs to be outlined with a law that does not overlap and clearly stipulate the interests of citizens that are protected as national interests and the direction of development of an effective form of action for each MCH, wherever the territorial waters of Indonesia are located.
6. Establishing clear agreements / treaties regarding the boundaries of territorial waters with neighboring countries.
7. As explained above, one of the problems in the Natuna Sea is the unclear sea boundary which will create obstacles for the interests of the state (in this case the coastal state) and the people protected by claims of authority over the sea which includes the sea, coast, coast and all their wealth. With the establishment of bilateral agreements between countries bordering directly on their territorial waters, actions will be minimized in violation / crime against other countries' territories.

Approaches of the Government of Indonesia to establish its sovereignty in the Natuna Island

1. The full implementation of geostrategic of national resilience (*geostrategic-tannas*) that had been announced in the Post-Reformation Era

The concept of national resilience (*Tannas*) Indonesia is the conception of developing national power through the regulation and implementation of welfare and security that are balanced, harmonious in all aspects of life as a whole and in an integrated manner based on *Pancasila*, the 1945 Constitution, and the Archipelagic Insights. In other words, the conception of the National resilience of Pancasila is a guideline (means) to improve the (resilience) method and resilience of the nation incorporating the ability to develop national power with a welfare and security approach.

Welfare can be described as the nation's ability to grow and develop its national values for the sake of the prosperity of the people in a fair and equitable manner. While security is the ability of a nation to protect its national values against threats from outside and within the country.

Thus, in the Post-Reformation era, the nature of national development was directed towards the development of the Indonesian people as a whole and the development of Indonesian society as a whole. This principle will create an equal life to other advanced

nations. Development from the people, by the people, and for the people which includes political aspects, economy, socio-cultural, defense and security, requires harmonious relations with God the Almighty, amongst fellow humans, and the surrounding natural environment. Community is the main actor of development and the government must direct, guide, and create an atmosphere that supports and utilizes all national resources. The goal of national development is to realize an equitable and prosper community that is distributed evenly on material and spiritual basis based on *Pancasila* and the 1945 Constitution in the Republic of Indonesia which is independent, sovereign, shared, united, and sovereignty of the people in an atmosphere that is secure, peaceful, orderly and dynamic in the Republic of Indonesia. The reflection of a free, dignified, orderly and peaceful world.

2. Effective application of the Indonesian Maritime Axis Principle

Indonesia is the largest archipelagic country in the world that has the potential to become the World Maritime Axis. The World Maritime Axis aims to make Indonesia a large, strong and prosperous maritime country through the restoration of Indonesia's identity as a maritime nation, safeguarding maritime interests and security, empowering maritime potential to realize Indonesia's economic equality.

Becoming the World Maritime Axis country will include the development of maritime processes from infrastructure, political, socio-cultural, legal, security and economic aspects. Upholding the sovereignty of the sea territory of the Republic of Indonesia, revitalizing marine economic sectors, strengthening and developing maritime connectivity, rehabilitating environmental damage and conserving biodiversity, and increasing the quality and quantity of marine human resources, are the main programs endeavor to realize Indonesia as a global maritime axis. In achieving this goal, it takes 5 ways to build Indonesia's maritime affairs. The five ways are rebuilding Indonesia's maritime culture, commitment in maintaining and managing marine resources with a focus on building marine food sovereignty through the development of the fishing industry by placing fishermen as the main pillar, commitment to encourage infrastructure development and maritime connectivity by building sea tolls, sea ports, logistics, and shipping industry, as well as maritime tourism, maritime diplomacy which invites all Indonesian partners to work together in the maritime sector, and building maritime defense forces.

For the PRC, it is best to immediately stop the claim on the Natuna region, as long as the territory of the Indonesian state as a Coastal State. For the government of the Republic of Indonesia, in order to

maintain full preparedness in maintaining sovereignty in the Republic of Indonesia.

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